

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHELE CHERIE CHAPMAN
MOORE.

Plaintiff,

V.

JOYCE PLOCK, et al.,

Defendants.

8:09CV285

MEMORANDUM AND ORDER

This matter is before the court on Plaintiff’s Motion for Leave to Appeal In Forma Pauperis (“IFP”). (Filing No. [10](#).) Plaintiff has previously been granted leave to proceed IFP in this matter. (Filing No. [5](#).)

I. BACKGROUND

On October 19, 2009, the court dismissed Plaintiff's claims without prejudice and entered judgment against Plaintiff. (Filing Nos. [6](#) and [7](#).) On November 20, 2009, Plaintiff filed an untimely Notice of Appeal of the court's Judgment. (Filing No. [8](#).) However, on its own motion, the court gave Plaintiff an additional opportunity to show excusable neglect or good cause for the untimely Notice of Appeal. (Filing No. [12](#).) On January 19, 2010, Plaintiff filed an Affidavit explaining why she filed an untimely Notice of Appeal. (Filing No. [13](#).)

II. PLAINTIFF'S MOTION TO APPEAL IFP

Liberally construed, Plaintiff alleges that she missed her appeal deadline because she is under emotional distress and unable to think clearly. (*Id.* at CM/ECF pp. 1-4.) Plaintiff missed her appeal deadline by only two days. (*See* Filing Nos. 7 and 8.) For good cause shown, the court will consider Plaintiff's Notice of Appeal timely filed.

As set forth in [Federal Rule of Appellate Procedure 24\(a\)\(3\)](#):

(a) Leave to Proceed in Forma Pauperis

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may

proceed on appeal in forma pauperis without further authorization, unless the district court – before or after the notice of appeal is filed– certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis. In that event, the district court must state in writing its reasons for the certification or finding.

The court finds that because Plaintiff proceeded IFP in the district court, she may now “proceed on appeal in forma pauperis without further authorization.” Id.

IT IS THEREFORE ORDERED that:

1. Plaintiff’s Motion for Leave to Appeal IFP (filing no. 10) is granted.
2. The Clerk of the court shall provide the Court of Appeals with a copy of this Memorandum and Order.

DATED this 25th day of January, 2010.

BY THE COURT

s/ Joseph F. Bataillon
Chief United States District Judge
United States District Court

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